

REMARKS

With this response, claims 1, 8, 14, 16 and 17 are amended. These amendments do not constitute a waiver of Applicant's right to file a continuing application on the invention claimed in original claims 1, 14, 16 and 17. No claims are added or canceled. Claims 1-22 remain pending. Further examination and reconsideration of the present application are respectfully requested.

The telephonic interview with Examiner Chen held on December 4, 2006 is acknowledged. The above claim amendments were discussed.

Priority

The Examiner has stated in the Final Rejection that the disclosure of the priority document fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. In reliance upon this assessment, the Examiner has stated that claims 1-7 and 12-22 are deemed to have a later filing date of 02/05/2004. The Examiner has then applied intervening prior art to reject these claims as being unpatentable under 35 USC §§102, 103.

Applicants continue to traverse both the Examiner's decision regarding the priority determination and the rejection of claims 1-7 and 12-22 under 35 USC §§102, 103. However, in view of the above amendments and the attached Terminal Disclaimer, Applicants submit that the decision on priority and the rejections have been rendered moot.

The Amendments

Claim 1 has been amended to recite that the polyether segment comprises repeating units selected from a defined group. These repeat units are derived from oxetane monomers. Support for this amendment is present in the specification at page 7, lines 17 through 25 as amended in

Applicants' previous response. It is respectfully submitted that this amendment is supported by the specification of the priority document as originally filed and that claims 1-7 are therefore entitled to a priority date of 03/05/1998.

Claim 8 has been amended to make it an independent claim. This amendment combines the language of original claims 1 and 8. Claim 8 has already been granted the priority date of 03/05/1998.

Claims 14, 16 and 17 have been amended to incorporate the language of claim 8. It is respectfully submitted that after this amendment these claims are entitled to the priority date of 03/05/1998.

It is further submitted that these amendments are entitled to immediate entry. They add no new subject matter to the application and place the application in condition for immediate allowance. It is further submitted that these amendments are entirely consistent with the Examiner's reasoning in the Final Rejection with regard to question of priority and the nature of the polyether segment that she has said is supported by the specification.

Double Patenting

Claims 1-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-88 of U.S. Patent No. 6,660,828.

With respect to U.S. Pat. No. 6,660,828, enclosed is a Terminal Disclaimer encompassing these documents. It is respectfully submitted that the filing of this Terminal Disclaimer overcomes the double patenting rejections of record as to this patent.

Claim rejections under 35 USC 102

Claims 1-7, and 12-22 are rejected under 35 U.S.C. 102(b) as being anticipated by:

- (a) Weinert et al. (US 6,383,651); or
- (b) Callicott et al. (6,523,418); or
- (c) (c) WO 99/450079 (WO '079).

As discussed above, claims 1-7 and 12-22, as amended, are entitled to a priority date of 03/05/1998. Accordingly, none of the cited documents is available as prior art under 35 USC 102(b). Withdrawal of the rejections is respectfully requested.

Claim rejections under 35 USC 103

Claims 1-7, and 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over:

- (a) Weinert et al. (US 6,383,651); or
- (b) Callicott et al. (6,523,418); or
- (c) WO 99/450079 (WO '079).

As discussed above, claims 1-7 and 12-22 are entitled to a priority date of 03/05/1998. Accordingly, none of the cited documents is available as prior art under 35 USC 103(a). Withdrawal of the rejections is respectfully requested.

CONCLUSION

In view of the above remarks, it is respectfully submitted that the claims and the present application are now in condition for allowance. Entry of the Amendment and allowance of the claims is earnestly solicited. In the event that a phone conference between the Examiner and the Applicant's undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact said attorney at (651) 275-9844.

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Wright et al.

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Examiner Vivian Chen

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Respectfully Submitted,

By:

James V. Lilly

James V. Lilly, Reg. No. 27,817

Customer Number 33072

Phone: 651-275-9844

Facsimile: 651-351-2954

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